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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,209	05/25/2001	Claude P. Selitrennikoff	MYCOLOGX-04875	4348

23535 7590 01/24/2003

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EXAMINER
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GITOMER, RALPH J

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 01/24/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/866,209

Applicant(s)

Selitrennikoff et al.

Examiner

Ralph Gitomer

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 28, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Applicant's election without traverse of Group III, claims 12-29, in Paper No. 9 is acknowledged. A Form 1449 received 10/11/01 has not been considered because none of the 71  
5 references are found in the file and they are not readily available to the examiner. No priority is claimed, this application was filed 5/25/2001.

10 Claims 12-29 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant  
regards as the invention. Each of the following applies in all occurrences.

15 In claim 12 line 1, ~~the~~ identification lacks antecedent basis. In the preamble of claim 12 directed to a compound having an ability, it is noted that compounds do not have abilities. Perhaps ~~a~~ compound which inhibits ~~may~~ be intended. In claim 12(c) and all occurrences, ~~capable of~~ is improper. In claim 19, it is unclear as to how the microbial isomerase differs from  
20 the second isomerase. In claim 20, ~~said animal~~ lacks antecedent basis.

The presently claimed method of determining if a compound is a microbial ketol-isomerase inhibitor with nitro blue tetrazolium chloride using the pathway shown in Fig. 2 is not fairly taught or suggested by the references of record.

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The following prior art pertinent to applicant's disclosure is made of record and not relied upon:

Grandoni (5,998,420) teaches treating tuberculosis.

Belguith (6,372,476) teaches isomerases.

10 Little (6,355,616) teaches antifungal compounds.

Milewski (Drugs Expl Clin Res) teaches isomerase inhibitors.

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Phoebe (J of Antibiotics) teaches isomerase inhibitors.

Selitrennikoff (Emerging Therapeutic Targets) teaches ketol-isomerase inhibition studies.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (703) 308-0732. The examiner can normally be reached on Tuesday-Friday from 8:00 am - 5:00 pm.

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The examiner can also be reached on alternate Mondays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (703) 308-4743. The fax phone number for this Art Unit is (703) 308-4556. Any inquiry of a general nature or relating to the status  
25 of this application should be directed to the Group receptionist

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Art Unit 1651

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whose telephone number is (703) 308-1235. For 24 hour access to  
patent application information 7 days per week, or for filing  
applications electronically, please visit our website at  
www.uspto.gov and click on the button Patent Electronic Business  
Center for more information.

*Ralph Gitomer*

Ralph Gitomer  
Primary Examiner  
Group 1651

RALPH GITOMER  
PRIMARY EXAMINER  
GROUP 1200